Dave Freudenthal, Governor

Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

John Corra, Director

CERTIFIED MAIL August 14, 2008

Mr. Mark Tobiasson
KDA Construction Inc.
3723 Fairview Industrial Drive SE, Suite 196
Salem, OR 97302

RE: Notice of Violation and Order, Docket Number 4331-08

Dear Mr. Tobiasson:

Attached is a Notice of Violation and Order, Docket Number **4331-08,** for failing to abide by WYPDES Authorization WYR103444 as required by the WYPDES Storm Water Permit.

ANY APPEALS TO THE ENVIRONMENTAL QUALITY COUNCIL FROM THE ATTACHED ORDER MUST BE MADE IN WRITING WITHIN THE TEN (10) DAY TIME LIMIT PRESCRIBED BY W.S. 35-11-701(c). Chapter I, Section 3 of the Department of Environmental Quality Rules of Practice and Procedure (http://soswy.state.wy.us/RULES/5675.pdf) sets forth the requirements for the initiation of appeal proceedings.

To appeal this Order and request a hearing, you must file two (2) copies of your written petition. The first petition shall be mailed to the Chairman of the Environmental Quality Council at Room 1714, Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition should be sent to John V. Corra, Director, Wyoming Department of Environmental Quality, Herschler Building, 4th West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

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Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • http://deq.state.wy.us

ADMIN/OUTREACH	ABANDONED MINES	AIR QUALITY	INDUSTRIAL SITING	LAND QUALITY	SOLID & HAZ. WASTE	WATER QUALITY
(307) 777-7937	(307) 777-6145	(307) 777-7391	(307) 777-7369	(307) 777-7756	(307) 777-7752	(307) 777-7781
FAX 777-3610	FAX 777-6462	FAX 777-5616	FAX 777-5973	FAX 777-5864	FAX 777-5973	FAX 777-5973

PLEASE DIRECT ALL INQUIRIES TO: Kevin M. Wells, WYPDES Compliance & Enforcement Program Coordinator at the Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

John V. Corra
Director
Department of Environmental Quality

John F. Wagner
Administrator
Water Quality Division

JVC/JFW/MB/bb/8-0614

Enclosure: Notice of Violation and Order

cc: Lee Hanley, 8ENF-W-NP, EPA Region 8 (PDF)
James B. Eisenhauer, WYPDES Inspection Program Coordinator, Sheridan (PDF)
Bill DiRienzo ► Brian K. Lovett ► Leah J. Krafft ► Barb Sahl (PDF)
NOV Docket 4331-08
Environmental Quality Council
Keith Guille, DEQ Public Information Officer (PDF)

BEFORE THE

ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
KDA Construction, Inc.	)	
3723 Fairview Industrial Drive SE, Suite 196	)	
Salem, OR 97302	)	
	)	**DOCKET NUMBER 4331-08**

NOTICE OF VIOLATION AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. KDA Construction, Inc. (KDA) is the contractor of a large construction site located in Sweetwater County, Wyoming. The construction site has received authorization for storm water discharges associated with new and existing "large construction activities through the Wyoming Pollution Discharge Elimination System (WYPDES), authorization WYR103444.

2. The Wyoming Department of Environmental Quality, Water Quality Division (WQD) conducted an inspection of the facility on May 20, 2008. At the time of the inspection the construction site appeared to be inactive and KDA personnel were not present during the inspection. Observations recorded from the inspection resulted in a letter of violation (LOV) issued to KDA on June 6, 2008 for failure to meet permit requirements. DEQ requested KDA to respond to the LOV by July 17, 2008. To date, the WQD has not received the required response to the LOV. The WQD conducted another inspection of the facility on July 24, 2008 and conditions of the site had not improved from the previous inspection.

3. Under the Large Construction General Permit (LCGP) it states in part 7.4 **SWPPP Implementation**, **part 2** *"Projects beginning after September 1, 2006 For projects that begin after the effective date of this permit, the SWPPP must be implemented immediately and throughout the duration of the construction activity and up until the site is finally stabilized."* Failure to meet these requirements is a violation of Chapter 2 of the Wyoming Water Quality Rules and Regulations.

This Notice is being sent to you pursuant to W.S. 35-11-701(c)(i), which requires that in any case of the failure to correct or remedy an alleged violation, the director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible;

ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL – STATE OF WYOMING

WHEREFORE IT IS HEREBY ORDERED THAT:

1. KDA shall immediately submit to the WQD a plan of action to meet WYPDES storm water requirements for the facility. If the construction site has become inactive then KDA needs to proceed with the process to terminate this permit. Permittees wishing to terminate coverage under this permit must submit a Notice of Termination (NOT) as stated in Part 5 of the LCGP identifying the facility/site and the reason permit coverage is no longer required. If the

construction site is still active KDA needs to submit a plan of action indicating the permit requirements will be met for the life of the permit. This information shall be received by the WQD no later than 30 days from the date of the NOV and Order.

2. KDA shall immediately address site stabilization with implementation of BMPs (Best Management Practices) as required in the WYPDES storm water permit until the construction site has been stabilized.

This ORDER is final unless, no later than ten (10) days after the date this notice is received; it is appealed by filing two written requests for a hearing before the Environmental Quality Council. If a hearing is requested, the first hearing petition shall be mailed to the Chairman, Wyoming Environmental Quality Council, Room 1714, Herschler Building, 1st Floor West, 122 West 25th St., Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of the Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th St., Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

NOTHING IN THIS NOTICE OF VIOLATION (NOV) AND ORDER shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV AND ORDER be interpreted as being a condition precedent to any other enforcement action.

Signed this 19th day of August, 2008.

John V. Corra
Director
Department of Environmental Quality

John F. Wagner
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRIES TO: Kevin M. Wells, WYPDES Compliance & Enforcement Program Coordinator, Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Telephone 307-777-8669.

JVC/JFW/KMW/bb/8-0614

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Director, DEQ
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